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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,109	10/19/2005	Shinichi Inaba	271114US3PCT	3927
22850 7590 08/10/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER VERMA, RISHI GOPAL				
ART UNIT 3728		PAPER NUMBER		
NOTIFICATION DATE 08/10/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/532,109

**Applicant(s)**

INABA ET AL.

**Examiner**

RISHI VERMA

**Art Unit**

4136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 5-8 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-152)  
Paper No(s)/Mail Date 11/17/2008, 7/20/2005, 4/21/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 1-39 rejected under 35 U.S.C. 112, second paragraph, as being indefinite because they are directed to apparatus and method steps of using the apparatus.

Please refer to MPEP 2173.05(p).

**A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. IPXL Holidays vs. Amazon.com Inc., 430 F.2d 1377,1384,77 USQ2d 1140, 1145(Fed. Cir. 2005); Ex parte Lyell, 17 USPQ2d 1548 (Bd. Pat. App. & Inter.1990) (claim directed to an automatic transmission work stand and the method of using it) was held ambiguous and properly rejected under 35 U.S.C. 112 second paragraph.**

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 ,2, 9/1, and 9/2 are rejected under 35 U.S.C 102(b) as being anticipated by Schneider et al. (US Patent No. 6206243 B1).

Regarding Claim 1-2, Schneider et al. teaches a body portion as illustrated in Fig. 6A and a bottom portion 86A which is molded column 1, lines 29-31, wherein the entire main body is set in a folded state in a step before filling (column 5, lines 10-19) , wherein the folded state of the main body is formed by folding the entire bottom portion

in parallel to the body portion Abstract line 5-9, and wherein the main body is comprised of synthetic resin column 5 line 43-45 . The folded state of the bag's main body is formed by folding a bottom portion into two toward an inner side as illustrated at 86A Fig. 6A of the body portion so as to fold in parallel to the body portion.

Regarding claims 9/1 and 9/2, Schneider et al. teaches the bag's main body is filled with at least one of a surface active agent and a solvent column 1 line 11- 15 as a component.

Claims 3 and 9/3 are rejected under 35 U.S.C 102(b) as being anticipated by Ichikawa et al. (US Patent No. 6126315).

Regarding Claim 3 Ichikawa et al. teaches a body portion as illustrated at 60 in Fig. 10 and a bottom portion as illustrated at 53 in Fig 11 which is molded column 2 line 5-8, and wherein the entire main body is set in a folded state in a step before filling column 5 line 8 -12, wherein the folded state of the bag's main body is formed by folding a bottom portion into two toward an outer side as illustrated in Fig. 4 of the body portion so as to fold in parallel to the body portion as illustrated in Fig 2, and wherein the main body is comprised of synthetic resin Column 2 line 43 -48.

Regarding claim 9/3

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4/1 and 4/2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (US Patent No. 6206243 B1) in view of SHIMADA SHINJI (JP Pat. No. 2001072030)

Claim 4/3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa et al. (USP No. 6126315) , in view of SHIMADA SHINJI (JP Pat. No. 2001072030)

Ichikawa et al. doesn't teach the means of maintaining the folded state of the body's main body.

Regarding Claim 4 Japanese teaches the way of maintaining the folded state of the bag 's main body as illustrated at 5A, 5B in Fig 3.

It would have been obvious to one of the ordinary skills in the art at the time the invention was made to modify the bag taught by Ichikawa et al with teachings of SHIMADA SHINJI. After buttoning the buttons placed in lower body of the container would save space in the storage area.

#### **Pertinent Prior Art**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. WO 92/21581 and US Pat No.3727803 have been cited as showing other, similar cigarette packs.

#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RISHI VERMA whose telephone number is (571)272-1390. The examiner can normally be reached on 7:30-5:00(m-f) alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on 571-270-41493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rishi G Verma  
7/2/09

/Marvin M. Lateef/  
Supervisory Patent Examiner, Art Unit 4136